

Sixth Appellate District

San Jose, California

MONDAY, MAY 17, 2004

(no minute approved orders)

TUESDAY, MAY 18, 2004

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; McAdams, J.; and J. Michel Casique, Deputy Clerk. Counsel waive the presence of Mihara, J. and stipulate that Mihara, J. may review the tape of oral argument.

H026422 In re BUSTER T., et al.; DFCS v. SYLVIA T., et al.

Cause called and argued by Sheri Cohen appearing for Appellant father, Robert J. Masterson, Deputy District Attorney, appearing for the Minors, and by Kathryn Hogan, Deputy County Counsel, appearing for Respondent DFCS. Carole Greeley, counsel for Appellant mother waives her appearance. Parties stipulate that the matter shall be submitted upon the return of Mihara J. and review of oral argument. Court stands in adjournment.

H026686 PEOPLE v. LICATA

(Filed order modifying opinion. Change in judgment.) The order appealed from is reversed. The trial court is directed to grant defendant's motion to have his conviction in Monterey County Case Number SS012644 deemed a misdemeanor and to modify the judgment accordingly. (not published)  
(Premo, J.; Rushing, P.J.; Elia, J.)  
Filed May 18, 2004

WEDNESDAY, MAY 19, 2004

H026741 PEOPLE v. RYAN B.

The juvenile court's disposition order is affirmed. (not published)  
(Elia, J.; We concur: Rushing, P.J., Premo, J.)  
Filed May 19, 2004

H026253 In re JOSE ANGEL BARRIENTEZ on Habeas Corpus

The trial court's July 23, 2003 order granting Barrientez's release is reversed and the Governor's December 19, 2000 decision reversing the Board's decision to grant parole is reinstated. (not published)  
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)  
Filed May 19, 2004

Sixth Appellate District

San Jose, California

Wednesday, May 19, 2004 (continued)

H026380 PEOPLE v. GARCIA

The judgment is affirmed. (not published)  
(Elia, J.; We concur: Rushing, P.J., Premo, J.)  
Filed May 19, 2004

H025857 PEOPLE v. SLATER

By the Court:

Appellant's motion to vacate submission and thereafter set this matter for oral argument is granted. The submission order dated May 4, 2004, is hereby vacated. The clerk of this court is directed to file appellant's request for oral argument with the matter to be set for oral argument on a date and time to be advised.

Dated: May 19, 2004 Bamattre-Manoukian, Acting P.J.

H026357 PEOPLE v. GARCIA

The judgment is affirmed. (not published)  
(Elia, J.; We concur: Rushing, P.J., Premo, J.)  
Filed May 19, 2004

H025649 PEOPLE v. MARTINEZ

The judgment is affirmed. (not published)  
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)  
Filed May 19, 2004

THURSDAY, MAY 20, 2004

H025886 PEOPLE v. RUIZ

The judgment is affirmed. The clerk of the superior court is ordered to correct the minute order of the sentencing in accordance with the reporter's transcript to show that the trial court ordered defendant to submit his person, residence, vehicle, and areas under his dominion and control to search and seizure at any time of the day or night by any peace officer, with or without a warrant, for weapons. (not published)  
(Premo, J.; We concur: Rushing, P.J., Elia, J.)  
Filed May 20, 2004

H026310 PEOPLE v. LEGGETT

The judgment is affirmed. (not published)  
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)  
Filed May 20, 2004

Sixth Appellate District

San Jose, California

Thursday, May 20, 2004 (continued)

H025213 LE FRANCOIS, et al. v. GOEL, et al.

The judgment is affirmed. (not published)  
(Premo, J.; We concur: Rushing, P.J., Elia, J.)  
Filed May 20, 2004

H025799 PEOPLE v. ZAMORA

By the Court\*:

Appellant's petition for rehearing is denied.  
Filed: May 20, 2004

\*Before Rushing, P.J., Premo, J. and Elia, J.

H025433 KAPCZYNSKI v. CORMIER

The judgment is modified as follows:  
Page 1, paragraph 1, subdivision (b) is stricken in its entirety.  
Page 3, paragraph 9 is modified to read:  
"The funds in Charles Schwab account No. 2513-8205 are divided between the parties as follows:  
"a) To Petitioner, the sum of \$161,964, as her share of community funds;  
"b) To Respondent, the sum of \$161,964, as his share of community funds;  
"c) To Respondent, the sum of \$3,106.07 as his separate property;  
"d) Any overage or shortage in the account from \$327,034.07 (the total of (a), (b) and (c)) shall be added or deducted from each party's share in a pro rata, percentage manner based upon the amounts stated herein. (Petitioner's percentage share is 49.5 percent and Respondent's percentage share is 50.5 percent.)"  
As modified the judgment is affirmed. The parties shall bear their own costs on appeal. (not published)  
(Premo, J.; We concur: Rushing, P.J., Elia, J.)  
Filed May 20, 2004

H024532 CRABB, et al. v. FORTE

By the Court\*:

Appellant's petition for rehearing is denied.  
Filed: May 20, 2004

\*Before Rushing, P.J., Premo, J. and Elia, J.

Sixth Appellate District

San Jose, California

Thursday, May 20, 2004 (continued)

H026853 PEOPLE v. HERNANDEZ

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated May 11, 2004, is hereby vacated. The court by separate letter issued May 13, 2004, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.

Dated: May 20, 2004 Bamattre-Manoukian, Acting P.J.

H026402 MURPHY v. GREGORCZUK, et al.; OPPERWALL

By the Court\*:

Appellant's petition for rehearing is denied.

Filed: May 20, 2004

\*Before Rushing, P.J., Premo, J. and Elia, J.

H025628 PEOPLE v. SMITH

The judgment is affirmed. (not published)  
(Elia, J.; We concur: Rushing, P.J., Premo, J.)  
Filed May 20, 2004

H025884 SEAVER, et al. v. COUNTY OF SANTA CRUZ

By the Court\*:

Respondent's petition for rehearing is denied.

Filed: May 20, 2004

\*Before Rushing, P.J., Premo, J. and Elia, J.

FRIDAY, MAY 21, 2004

H026076 PEOPLE v. THORSON

The judgment is affirmed. (not published)  
(Premo, J.; We concur: Rushing, P.J., Elia, J.)  
Filed May 21, 2004

H025834 PEOPLE v. WATTS

The judgment is reversed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed May 21, 2004

H025398 PEOPLE v. PAUL

The judgment is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed May 21, 2004

Sixth Appellate District

San Jose, California

Friday, May 21, 2004 (continued)

H025815 PEOPLE v. RUCKS

The judgment is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed May 21, 2004

H026260 PEOPLE v. HUYNH

The judgment is modified to lower the gang enhancement attached to count 2 (assault) to one year and four months, resulting in a total sentence of 24 years and four months. As modified the judgment is affirmed. The Santa Clara County Superior Court shall direct the clerk to prepare an amended abstract of judgment reflecting this modification and furnish a copy to the California Department of Corrections. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed May 21, 2004

H026295 FILIPONE v. DREW

The order is reversed. Each party to bear his or her costs on appeal. (not published)  
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)  
Filed May 21, 2004